THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

W.P. NO. 30443 of 1997

DATED: 27.6.2007

Between:-

K. Munirathnam s/o K. Muthyla Reddy, aged about 22 years, R/o Pagali village, Pangoor PO, Earpedu Mandal, Chittoor District.

…PETITIONER

And

The Executive Officer, T.T.Devasthanam, Tirupati and another.

..RESPONDENTS

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

W.P. NO. 30443 of 1997

O R D E R

Questioning the notification dated 28.10.1997 issued by the Tirumala Tirupati Devasthanam (T.T.D.) calling for the applications for the posts of Skilled Assistant (Sculpture) from candidates belonging to Open Category (O.C), the present writ petition is filed.

Petitioner, a Backward Class 'A' (B.C.'A') candidate, underwent a four years certificate course in Sculpture from Sri Venkateswara Sculpture Training Centre, T.T.D. The Respondent-Devasthanam issued notification dated 30.10.1996 inviting applications from eligible candidates for filling up the post of Skilled Assistant in Sculpture. The post was reserved for B.C. 'A'. Petitioner was called for interview vide letter dated 27.5.1997 and interviews were held on 08.06.1997 and 09.06.1997. A written examination was conducted which the petitioner claims to have passed. Petitioner was called for an oral interview on 14.07.1997. Petitioner would contend

that, while two persons belonging to B.C 'A' category attended the test, it was he who was selected. Petitioner would submit that, while he was is expecting appointment orders, he was surprised to know that the respondent-Devasthanam had issued another notification on 28.10.1997 inviting applications to the same post but the post was declared as O.C. Petitioner would contend that once the post was notified as belonging to B.C 'A' category in 1996, it cannot be denotified within a year in 1997.

Sri T.C. Krishnan, learned counsel for the petitioner, would placed reliance on **UNION OF INDIA . V. MADHAV GAJANAN CHAUBAL**[1] and **S. RAJENDRAN V. UNION OF INDIA**[2] in support of his contention that, once a post is reserved for B.C. 'A' it continues to remain reserved till it is de-notified in accordance with the rules, that too, only after three years. Learned counsel would submit that the action of the T.T.D. in denotifying the said post, within a year, was contrary to the rules and was, therefore, illegal.

In the counter-affidavit filed on behalf of the respondents, it is stated that (11) posts of Skilled Assistants were sanctioned for the introduction of the 4 years Diploma Course, that initially, in order to

impart training, two electives viz. Sudai and Stone Sculpture were taken up and that the T.T.D. management had accorded sanction to fill up 2 Sudai Sculpture and 2 Stone Sculpture posts in the Skilled Assistant cadre and the roster for the said 4 posts was,

1. 1/1 -OC- Skilled Assistant (Sudai)
2. 2/1 -SC- Skilled Assistant (Stone Sculpture)
3. 3/1 -OC- Skilled Assistant (Sudai)
4. 4/1 -BC.A- Skilled Assistant (Stone Sculpture)

The respondents would state that out of the said 4 posts only 3 posts i.e. 2 O.C and 1 B.C.'A' were notified on 30.10.1996 inviting applications from eligible candidates and that the post reserved in favour of the Scheduled Castes could not be notified in view of the Government instructions to keep recruitment to S.C. category posts in abeyance. It is stated that selections were also finalized with regard to 2 Skilled Assistants (Sudai) and appointment orders were also released with regard to one B.C. 'A' post. It is stated that only two candidates, including the petitioner, attended the interview but they were found below average and hence the selection committee did not select any of them. It is stated that though one BC-B candidate secured good marks, he was not considered for appointment in BC-A

category only to avoid controversy. It is stated that subsequently the T.T.D. proposed to fill up one more Skilled Assistant (Stone Sculpture) post, for which another notification was issued on 28.10.1997 inviting applications from eligible candidates and that this post falls under the roster point No. 5/1 reserved for O.C. Respondents would state that, in view of Rule 4 (VII) of the T.T.D. Service Rules issued in G.O.Ms. No. 1060, dated 24.10.1989, the A.P. State and Subordinate Service Rules are applicable, that there was no dereservation in the present case and that the rule of carry-forward did not apply. It is reiterated that the subsequent notification is for another post, which falls in the O.C. category, and hence the question of the second notification being illegal did not arise. It is stated that the S.V. Sculpture Training Centre was started in the year 1960 to impart training in certificate courses in the faculty of sculpture and that, according to the schedule of establishment, 3 posts were sanctioned originally on permanent basis in the cadre of Skilled Assistant and later 8 more posts were sanctioned on permanent basis in terms of G.O.Ms. No. 98 (Rev. Endts.III) Department, dated 01.02.1989 and that the additional 8 posts were sanctioned in the cadre of Skilled Assistants when the Diploma

Courses were proposed to be started. It is stated that, initially only two electives viz. Sudai and Stone Sculpture were introduced and that the Government had accorded sanction for filling up 2 posts for Stone Sculpture and 2 for Sudai Sculpure. It is stated that subsequently, on a proposal sent by the respondents, permission was accorded for introduction of four more electives in the Diploma in Traditional Sculpture and Architecture in addition to the existing two electives for the academic year 1997-1998 and the new electives were (1) Diploma in Temple Architecture, (2) Diploma in Metal Sculpture, (3) Diploma in Wood Sculpture and (4) Diploma in Traditional Painting and that, to provide the necessary infrastructure for starting the above electives, additional staff in the cadre of Skilled Assistants and other categories were required and, therefore, the cadre strength which was already sanctioned for 11 posts were filled up by duly complying with the rules and selection procedure. It is stated that the respondent-board in its Resolution No. 410, dated 9.10.1997 had accorded sanction for recruitment and filling up of the posts of Skilled Assistants to cater to the needs of the newly started electives in the departments of S.V. Sculpture and Training Centre and that the cadre strength sanctioned by the Board Resolution in the above posts was allotted to different

electives as under:-

1.	2 posts	….	Temple Architecture.
2.	1 post	….	Stone Sculpture.
3.	1 post	….	Metal Sculpture
4.	1 post	….	Wood Sculpture
5.	1 post	…	Traditional Painting.

and that in addition to this, the Board had also approved the proposal sanctioning 3 more posts in the cadre of Instructor and 6 posts of Helpers in each elective. Respondents would place reliance on Rule 22 (j) of the A.P. State and Subordinate Service Rules, 1996, as notified in G.O.Ms. No. 65 (G.A.D.) Service Department dated 15.2.1997, which provides that where there was only one post, the rule of reservation would not apply for appointment to such a post. According to the respondents, in the 1997 notification, the post was categorized as O.C. Respondents would also state that since both the candidates who were interviewed on 14.7.1997, including the petitioner, were not found upto the mark, the posts were kept vacant without selecting any one against B.C 'A' category.

In **Madhav Gajanan Chaubal**[1] , the Supreme Court held that even though there is a single post, if the Government had applied the rule of rotation and the roster point to the vacancies that had arisen in

the single point post and if this post was sought to be filled up by candidates belonging to the reserved categories at the point on which they are eligible to be considered, such a rule was not violative of Article 16 (1) of the Constitution of India.

As noted above, there are 11 sanctioned posts in the cadre of Skilled Assistants and, since the rule of reservation would apply in filling up of these 11 posts, the law laid down in **Madhav Gajanan Chaubal**[1] which relates to a single post, has no application to the facts of the present case.

In **S.Rajendran**[2] the Supreme Court held that where a single vacancy arose in the post of the Deputy Superintendent of Jailor which was reserved for Scheduled Caste, and for non-availability of S.C. candidates the post was filled up on *ad hoc* basis by appointment of a general category candidate, the reserved vacancy was required to be carried over for three subsequent years only after which it would lapse and that appointment of a candidate belonging to the Scheduled Caste category, when the post was available, before reservation would lapse, was valid, and that the action of the respondents in rejecting the claim of the *ad hoc* appointee for regularization was valid. The said

judgment also has no application to the facts of the present case.

It is clear that the post reserved in favour of B.C-A, which was notified in 1996 and for which the petitioner was interviewed on 14.07.1997, remains unfilled. The vacancy sought to be filled up in the subsequent notification dated 28.10.1997 was to the 5th post of Skilled Assistant and since it is clear from the counter-affidavit of the respondents that the roster point for 5th post is O.C, the action of the respondents in issuing the notification cannot be faulted.

It must, however, be made clear that the understanding of the respondents on the need not to provide reservation in the case of a single vacancy is erroneous. Under Rule 22 (j), of the A.P. State Subordinates Service Rules, it is only where there is a single solitary post borne on the class or category of a service, that rule of special representation shall not apply for appointment to such a post. The proviso to Rule 22 (j) makes it clear that the rule of special representation shall be applicable for appointment if the number of posts borne on the cadre, category or grade is more than one, even though selection is to be made against only one vacancy at any recruitment other than limited recruitment. The distinction between a

single vacancy and a single solitary post has to be borne in mind. While the rule of special representation would not apply, in terms of Rule 22 (j), where there is a single solitary post in the category of service, where there are more than one post in the category of service, even if a single vacancy is sought to be filled in any recruitment, the rule of reservation would undoubtedly apply.

The misconception of the respondent-TTD on the construction to be placed on Rule 22 (j) of the A.P. State Subordinate Service Rules, 1996 notwithstanding, the petitioner cannot claim appointment as a Skilled Assistant (Sculpture) in the respondent-TTD, firstly, because he was not found upto the mark in the selections held pursuant to the notification issued in 1996, and, secondly, since the notification issued on 28.10.1997 was to the 5th post of Skilled Assistant. As is clear from the counter-affidavit, the 4th post which was reserved in favour of BC-A category, and which was notified in the year 1996, has been kept unfilled.

Sri T.C. Krishnan, learned counsel for the petitioner, would submit that the petitioner's non-selection in 1997 notwithstanding, the T.T.D. continues to engage him as a Shilpi Contractor. It is made clear

that the order now passed upholding the action of the T.T.D. in not filling up the post of Skilled Assistant (Sculpture) pursuant to the notification issued in 1996, and in issuing a fresh notification on 28.10.1997, would not preclude them from filling up the post of Skilled Assistant reserved in favour of B.C-A category in accordance with law and to consider the case of the petitioner, if he is eligible, according to the rules, as and when they chose to fill up the vacancy.

The writ petition is, accordingly, disposed of. No costs.

_____

RAMESH RANGANATHAN, J

Dated: 27-06-2007
vp

---

[1] AIR 1997 SC 3074

[2] AIR 1998 SC 1713